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**USE OF DEADLY FORCE INVESTIGATION****THE STATEMENT OF OFFICER IN CONNECTION WITH U.D.F.I.T.**

Date: January 11, 2011

Time: 1120

The following is the statement of: P.O. JAMES T. MERRITT #2230

Age: 42 Sex: M Race: W DOB: -69

APPOINTMENT DATE: 8-30-99

BADGE NUMBER: 2230

EMPLOYED: Department of Public Safety, Division of Police

ASSIGNED: 4<sup>TH</sup> District B Platoon ADDRESS: 9333 Kinsmen Rd.

CITY: CLEVELAND

STATE: OHIO PHONE: 623-5400

**REGARDING THE INVESTIGATION OF: USE OF DEADLY FORCE INCIDENT NUMBER 10-23**

I AM MAKING THIS STATEMENT PURSUANT TO THE ORDERS OF A LAWFUL SUPERVISORY OFFICER. I MAKE THIS STATEMENT PURSUANT TO THE ESTABLISHED PRINCIPLES OF GARRITY V.S. NEW JERSEY 385 S. CT. (1967). I DO NOT WAIVE MY LEGAL RIGHTS, NOR DO I CONSENT TO THE AUDIO OR VIDEO RECORDING OF MY STATEMENT.

Q: What can you tell us about the incident that occurred at 3589 East 114<sup>th</sup> Street on December 31, 2010 at approximately 2048 hours?

A: I was working Zone Car 4B25 on second shift with P.O. Richard Rusnak #849. We responded to assist Zone Car 4B24 for a male resisting arrest at East 112<sup>th</sup> & Benham Avenue. We responded from the area of East 142 & Milverton when we heard the radio request for assistance. Upon our arrival, we were unable to locate the officers but located their Zone Car at East 112<sup>th</sup> & Benham. We searched the area of East 114<sup>th</sup> and noticed a group of people pointing us south on the street. At that point, we were behind another Zone Car - Officers Melendez and Vargas. We were facing north so Officers Melendez and Vargas exited their car and ran down the street. I was driving and decided to turn around and head south down East 114<sup>th</sup>. I was able to locate the officers assigned to Zone Car 4B24 - Officers Chapman and Ilain were in front of a residence at 3589 East 114<sup>th</sup> wrestling with a male on the front lawn at that location.

I exited my Zone Car and ran to assist the officers with the combative male. At this point, there was Officers Chapman, Ilain, Melendez and Vargas were already on scene. I observed the 4 officers attempting to hold the male down while the suspect continued to kick, push, and hit at the officers. The male was in the push up position attempting to push the officers off of him. I immediately ran over and was able to grab the suspect's legs in an attempt to stop him from kicking the officers. At the same time, the other officers were attempting to handcuff the male. The suspect was given repeated verbal commands to stop resisting and place his hands behind his back but he refused to comply. The suspect was kicking at all of the officers, pushing us off of him and continually violent in an attempt to get free. It took 2-3 officers to get his arms behind his back to handcuff him.

The officers were able to get the suspect handcuffed and he was on the ground face down with his hands cuffed behind him. Once the suspect was handcuffed, I noticed a large crowd gathering a couple houses down and went over to conduct crowd control while the other officers continued to struggle with the suspect. I also noticed another crowd gathering around East 114<sup>th</sup> & Benham by the parked Zone Car. I watched as the other officers attempted to pat the suspect down while on the ground. The suspect continued to resist and refused to allow the officers to search his pockets. I was trying to maintain

Q: Having read your statement do you find it to be true?

A: YES

Signature: [Signature] #2230Witness/Relationship: Jeffrey Follmer #654 [Signature] CPPA VicWitness/Relationship: Pat DeAngelo - CPPA Attorney [Signature]Witness/Relationship: Sergeant Timothy Stacho #9902 [Signature] #9902Taken by: Det. Kathleen Carlin #142 [Signature]

Taken at: Homicide Unit

Date: 1-11-11 Time: 1230

**PLAINTIFF'S  
EXHIBIT****30**

001124

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visual on the officers and the suspect but at the same time make certain the crowd did not interfere. After several attempts on the ground, I watched the officers get the suspect to his feet in order to continue the pat down. At this point, the officers got the suspect closer to the house by a handicapped ramp and had him against the house to search his pockets. I was adjacent to our Zone Car and the officers walked the suspect towards the Zone Car. I observed the suspect continued to resist and struggle with the officers as they were walking him to the police car. At which point, I opened up the driver's rear door to secure the suspect in the back. While this is occurring, I heard repeated gunshots in the area but was unable to determine the location the shots were being fired. The suspect continued to violently struggle, kicking his feet and resisting the officers' attempts to put him in the zone car. Eventually, the officers were able to get the suspect in the zone car and shut the door. At this point my partner, Officer Rusnak, called for EMS and someone called for a supervisor to the scene. I then rolled down both rear windows to allow ventilation of the back seat for the suspect.

I observed the suspect in the backseat continuing to be combative and kicking at the rear door of the zone car. The suspect was yelling from inside the police car and moving back and forth in the car. At one point, he actually got on his knees and pushing his head against the passenger door. At this point, I returned to observing the crowd but continued to observe the suspect in the rear of the police car. While the suspect was in the police car, I asked him why he was fighting with the police and he said he wasn't.

After a few minutes passed, the suspect calmed down and I observed his head leaning against the passenger door with his back towards the front seat. After opening the rear door, Officer Rusnak began asking the male questions. The suspect didn't really respond to my partner's questions but I did hear the male grunting in response. I was at the trunk area while the questioning was occurring. A short time after that, I saw EMS at Union and East 114<sup>th</sup> so we (Officer Rusnak and Melendez, I believe) removed the male from the Zone Car. We removed the male from the driver's side rear door and placed the male on his knees until EMS pulled up. The suspect appeared to have a glazed look on his face and wasn't talking. The suspect appeared calmer but continued to tighten up.

We told EMS to bring the gurney to our car, which they did, and Officers Rusnak, and I think Blaine and another officer assisted EMS in getting the male onto the gurney. The handcuffs were removed from behind the male, he was placed on the gurney and then the suspect was cuffed to the gurney. EMS immediately began providing medical attention to the suspect by checking his pulse, blood pressure etc. I heard EMS say he had a slight pulse. EMS then took him into the ambulance and I didn't have any further contact with

Q: Having read your statement do you find it to be true?

A: YesSignature: [Signature] #2230Witness/Relationship: Jeffrey Follmer #654 [Signature] CPPA Vice PresidentWitness/Relationship: Pat DeAngelo- CPPA Attorney [Signature]Witness/Relationship: Sergeant Timothy Stacho #9902 [Signature] #9902Taken by: Det. Kathleen Carlin #142 [Signature]Taken at: Homicide Unit

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the suspect. I heard EMS go over the radio to ask Fire Rescue to respond for assistance while they were in the back of the ambulance.

Fire Rescue responded and went into the back of the ambulance with EMS. A short time later 5-10 minutes, EMS rolled off with the suspect to the hospital. EMS was followed by Zone Car 4A25 to University Hospital.

Q: Did you learn the identity of the suspect at this location?

A: I learned on scene that the suspect's name was Rodney Brown.

Q: Have you ever had any previous contact with Rodney Brown?

A: Not to my knowledge.

Q: Do you know the reason for Zone Car 4B24 affecting the arrest of Rodney Brown?

A: I heard over radio that they were stopping a vehicle for a traffic stop and a chase ensued. I heard over radio the officers calling out for a male resisting. After that there was no response from the officers when radio attempting to contact them. The next radio contact was Officer Chapman requesting assistance with the male. My partner and I responded once Zone Car 4B24 requested assistance.

Q: Did you or any other officer on scene sustain any injuries during this incident?

A: I did not but Officer Ilain suffered a bump/bruise to his head from the struggle.

Q: What equipment were you wearing during this incident?

A: I was dressed in a police uniform with my badge, gun belt with assigned Glock 9mm Model 19 Serial #FUF416, flashlight, assigned Taser Serial #X00-349193, Radio, Asp baton, Pepper Spray, handcuffs, and bullet proof vest.

Q: What were the lighting conditions of the area at the time of this incident?

A: It was evening, so dark, but it was a lighted street.

Q: What vehicle were you operating on December 31, 2010?

A: Marked black and white Zone Car 439 with overhead lights - Ford Crown Victoria, unknown year. The overhead lights were operating the entire time of this incident.

Q: Did you observe any officer on scene use their Taser on the suspect?

A: No, including me not using mine.

Q: Did you hear Rodney Brown at any time request medical assistance or complain of any medical condition, particularly breathing?

A: While wrestling with BROWN on the front lawn, I heard him say something about his breathing but he continued to struggle even after making the statement. I didn't think anything of it because I was breathing heavy from the struggle and there were officers trying to cuff him. BROWN never made any request for medical assistance once in custody or in the rear of the zone car.

Q: Is there anything else you would like to add to your statement?

A: No.

Q: Having read your statement do you find it to be true?

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